In the Supreme Court of the United States.

OCTOBER TERM, 1905.

THE OTIS COMPANY, PLAINTIFF IN ERROR
vs.
THE LUDLOW MANUFACTURING COMPANY AND THE LUDLOW CORDAGE COMPANY.
} No. 73.

IN ERROR TO THE SUPERIOR COURT OF THE STATE OF MASSACHUSETTS.

Reply of Defendants to Motion of Plaintiff in Error.

The defendants in this action object to the allowance of the motion of the plaintiff in error to amend the judgment herein, and as the basis for such objection assign the following reasons:

Said judgment as rendered sufficiently preserves the rights of the plaintiff in error.

The discretion of the State Court may be relied upon to determine which of the two alternatives presented to it by the judgment of this Court will best preserve the rights of the parties.

The parties have not been heard in this Court upon this feature of the case, and as the defendants understand the rule and practice the matter cannot now be discussed here orally, but this may be done in the State Court, and evidence may, if necessary to the consideration of the question, be introduced there.

The only reason advanced by the plaintiff in error for retaining the bill is an assumption that the delay and expense attendant upon the former trial would be necessary to again present the constitutional question to this Court.

The record shows that a stipulation covering the principal facts reasonably essential to a determination of the constitutional question has been entered into between the parties, that at the hearings in the State Court much time

was devoted to the consideration of the so-called Metcalf Agreement, the progress of the work of the respective parties and other matters, all of which being local questions have now been determined and cannot hereafter arise in any further proceedings.

It is, therefore, respectfully submitted that if the State Court in its discretion should determine that the bill should be dismissed without prejudice, and if further proceedings in this Court shall become necessary, the same can be had without unreasonable delay or expense.

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Defendants' Attorneys.